

Agency for International Development

§ 213.36

by DOJ regulations or procedures, requests to terminate collection on debts in excess of \$100,000 are referred to the Commercial Litigation Branch, Civil Division, Department of Justice, for approval.

§ 213.32 Standards for termination.

A debt may be terminated where the CFO determines that:

- (a) The Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for available judicial remedies, the debtor's ability to pay, and the exemptions available to the debtor under State and Federal law;
- (b) The debtor cannot be located, there is no security remaining to be liquidated, and the prospects of collecting by offset are too remote to justify retention of the claim;
- (c) The cost of further collection action is likely to exceed the amount recoverable;
- (d) The claim is determined to be legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
- (e) The evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment have failed; or
- (f) The debt against the debtor has been discharged in bankruptcy.

§ 213.33 Permitted actions after termination of collection activity.

Termination of collection activity ceases active collection of the debt. Termination does not preclude the agency from retaining a record of the account for purposes of:

- (a) Selling the debt if the CFO determines that such sale is in the best interests of USAID;
- (b) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;
- (c) Offsetting against future income or assets not available at the time of termination of collection activity; or
- (d) Screening future applicants for prior indebtedness.

§ 213.34 Debts that have been discharged in bankruptcy.

USAID generally terminates collection activity on a debt that has been discharged in bankruptcy regardless of the amount. USAID may continue collection activity, however, subject to the provisions of the Bankruptcy Code for any payments provided under a plan of reorganization. The CFO will seek legal advice by the General Counsel's office if he believes that any claims or offsets may have survived the discharge of a debtor.

Subpart F—Discharge of Indebtedness and Reporting Requirements

§ 213.35 Discharging indebtedness—general.

Before discharging a delinquent debt (also referred to as a close out of the debt), USAID will make a determination that collection action is no longer warranted and request that litigation counsel release any liens of record securing the debt. Discharge of indebtedness is distinct from termination or suspension of collection activity and is governed by the Internal Revenue Code. When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in this part. When a debt is discharged in full or in part, further collection action is prohibited and USAID must terminate debt collection action.

§ 213.36 Reporting to IRS.

Upon discharge of an indebtedness, USAID will report the discharge to the IRS in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P-1. USAID may request FMS to file such a discharge report to the IRS on the agency's behalf.